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RE: OFFICIAL PAPER  
TO: Examiner: John S. Maples  
U.S. Patent and Trademark Office  
GAU: 1795  
FAX: 571-273-8300

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DATE: February 6, 2008  
Pages (incl. Cover): 3

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Re: **Mail Stop: AMENDMENT**  
**Response To Request Under 35 U.S.C. 1.121**

Case No: Hodes 7-13-19-21-14-10-5

Serial No: 10/803,565

File Date: March 18, 2004

Title: **RESERVE CELL-ARRAY NANOSTRUCTURED BATTERY**

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IN THE UNITED STATES  
PATENT AND TRADEMARK OFFICE

## Patent Application

Inventors: Marc S. Hodes et al

Case No.: 7-13-19-21-14-10-5

Serial No.: 10/803,565

Group Art Unit: 1795

Filing Date: March 18, 2004

Examiner: John S. Maples

Title: RESERVE CELL-ARRAY NANOSTRUCTURED BATTERY

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

## RESPONSE TO REQUEST UNDER 35 U.S.C. § 1.121

This paper is a response to the Office Communication mailed January 9, 2008 and the Restriction Request mailed Oct. 9, 2007.

1) In response to the Request for Restriction at paragraphs 2 – 4 of the Office Action of Oct. 9, 2007, Applicants elect to prosecute Group I, i.e., Claims 1 – 7, with traverse.

Applicants traverse this second Restriction Request, because M.P.E.P. § 803 (I) (B) states that a proper Restriction Request requires that the absence of restriction would impose a serious burden on the Examiner. Indeed, M.P.E.P. 803 states:

If the search and examination of **>all the claims in an<** application can be made without serious burden, the examiner must examine **>them<** on the merits, even though **>they include<** claims to independent or distinct inventions.

Here, there is no serious burden, because the Examiner puts the claims of both Groups in class 429. In the absence of a serious search burden, the Request should be withdrawn.

2) In response to the request to elect species at paragraphs 5 – 6 of the Office Action of Oct. 9, 2007, Applicants elect the species of embodiment 1 (Claims 3, 6, and 7). From statements of paragraphs 5 – 6 of the same Office Action, Applicants understand that prosecution will proceed on Claims 1, 2, and 5 and on Claims 3, 6, and 7 if needed.